



August 5, 2022

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue N.W.
Washington, DC 20551

**RE: Notice of Proposed Rulemaking – Community Reinvestment Act
Docket No. R-1769 - RIN 7100-AG29**

To Whom it May Concern:

Orange County Fair Housing Council, Inc., a non-profit organization promoting diversity in housing opportunities in Orange County, California, hereby submits comment on the Notice of Proposed Rulemaking (NPR) regarding updating the Community Reinvestment Act (CRA). As an organization working for civil rights and justice in the housing arena since 1965, we are very much aware of the importance of the CRA in furthering our goals and want to present some input regarding its possible modernization and improvement.

The community investments that result from CRA requirements, particularly as they relate to housing development and ownership for residents in traditionally underserved communities, are essential in bringing about the true purpose for the Fair Housing Act when first enacted over 54 years ago. That purpose, as we see it, is true desegregation of communities through true equal housing opportunity. Holding financial institutions accountable to their CRA requirements through more rigorous CRA exams and ratings is important in creating effective reinvestment activity in underserved communities, that in turn will support the that broader desegregation goal. The NPR proposed some significant improvements in test rigor but the improvements are not across the board on all aspects of exams. The NPR also improved data collection and the breadth of geographical areas on exams but did not include race and ethnicity on exams. Race and ethnicity data are obviously of significant importance vis-à-vis matters of housing discrimination and segregation.

Although the CRA statute does not mention race or ethnicity, it required banks to **serve all communities**, which provides room for the federal bank agencies to incorporate race and ethnicity in CRA exams. Persistent racial disparities in lending should compel the agencies to incorporate race and ethnicity in CRA exams. A recent national level analysis showed continuing disparities in loan denials by race and when people of color received home loans, their equity accumulation was less. The National Community Reinvestment Coalition (NCRC) had asserted in a paper that it is possible for changes to the CRA to comply with legal standards, if CRA monitoring and examination examined lending by race and ethnicity in geographical areas

experiencing ongoing discrimination. By including race and ethnicity, CRA monitoring can identify and address persistent racial disparities that have direct impacts on quality of life, including access to good education, health outcomes, and family wealth accumulation. NCRC had also proposed including analyses of lending in underserved neighborhoods with low levels of lending, which are disproportionately communities of color.

Since the CRA requires banks to meet the needs of communities, the agencies must elevate the importance of public comments, especially those of residents in underserved communities or organizations that serve them, regarding the extent to which banks meet needs. The agencies proposed to continue the current practice of sending any comments on CRA performance to banks and are also considering publishing comments received on agency websites. We agree with those that urge the agencies to post comments on their websites and also to establish a public registry for community organizations, such as ours, to sign up if they wish to comment on CRA performance. In addition, we ask that the agencies publish a list of organizations that comment and that the agencies identify those led by people of color and women in an effort to seek input from a diverse range of organizations.

We also agree with Acting Comptroller Hsu that the agencies must hold frequent public hearings on large bank mergers. CRA exams, if they are made more rigorous by a final rule, will help hold merging banks accountable. However, merging banks must also submit a community benefits plan as part of their merger applications which could include community benefits agreements (CBAs) negotiated with community organizations. When advocates have worked to hold merging institutions accountable to future community reinvestment actions they have succeeded in obtaining these CBAs. An analysis of the true likelihood of a proposed community benefit plan or CBA actually being implemented should be part of the consideration when approving or denying a bank merger.

The agencies bolstered the rigor on the large bank retail lending test by introducing performance ranges for comparisons among a bank's lending and demographic and market benchmarks. This "right-sized" approach would decrease ratings inflation and result in more failing and low satisfactory ratings on the lending test. In other words, it would give a more meaningful assessment of where an institution falls within what might be described as a peer group. As a result of this proposed reform, several banks would likely respond by boosting their retail lending to underserved communities. The other large bank tests such as community development finance and services include improvements but need to be further developed to guide examiners against inflating ratings.

The agencies correctly proposed to include new data collecting requirements for deposits, community development activities and automobile lending. Some of this data such as deposit and automobile lending would not be publicly available, which limits the extent to which the public can hold banks accountable. True effective assessment of lenders' activities as they may relate to CRA requirements requires more transparency. We ask the agencies to reconsider this decision and also to expand this data collection to all large banks.

For a significant period of time now, advocates for an updated and more impactful view of the CRA have urged the agencies to examine lending that occurs online. The agencies proposed to create assessment areas where a large bank does not have branches when a bank has issued 100 home loans or 250 small business loans. This proposal would result in the great majority of total lending being incorporated on exams and would therefore hold banks more accountable for serving low- and moderate-income communities. However, the agencies must further ensure

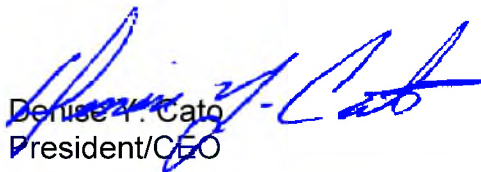
that exams do not overlook assessment areas containing smaller metropolitan areas and rural counties. It is well documented that a significant number of underserved communities exist in those demographic areas.

The agencies proposed to eliminate certain subtests for about 1,000 medium-sized and smaller banks that would eliminate their accountability for providing community development finance and branches in underserved communities. These changes lack justification since these banks have been successfully performing these activities for several years. In this age of technological tools, it is surely becoming easier and less burdensome to smaller institutions to have a more rigorous evaluation of their CRA performance. We urge the agencies to eliminate this aspect of the NPR since it would likely reduce a significant amount of reinvestment activity.

The NPR is a good start and promises to make parts of CRA exams more rigorous, but we urge the agencies to extend the rigor of the large bank lending test to the other tests. We also ask the agencies to incorporate race and ethnicity in CRA exams, to expand the public reporting of their data collection proposals and to incorporate the other improvements discussed above. If CRA is improved while maintaining public input and accountability, we believe the proposed rule could help reduce inequalities, disinvestment and other disadvantages in America's overlooked communities.

Thank you for consideration of our comments on this highly important revision of the rules governing the CRA.

Sincerely,



Denise A. Cato
President/CEO